

**REMARKS/ARGUMENTS**

Applicants appreciate the review of the present application as evidenced by the Advisory Action. Applicants have filed a request for continued examination and are submitting (in the form of a preliminary amendment) a response to the final Official Action. Based upon the presented amendments to independent claims 1, 7, 11, and 12, Applicants respectfully traverse the rejections of claims 1-12. In addition, independent claim 1 is amended to correct the lack of antecedent basis, as requested by the Final Official Action. In light of the currently and previously presented amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the present application.

***A. The Rejection of Claim 1 under 35 U.S.C. § 112, Second Paragraph, is Overcome***

The Final Official Action rejected independent claim 1 under 35 U.S.C. § 112, second paragraph, for lacking an antecedent basis. In particular, the Final Official Action states that there is insufficient antecedent basis for the limitation “the second server” in the last paragraph of claim 1. Independent claim 1 has been amended to change “the second server” to “a second server” in the last paragraph. Thus, the need for an antecedent basis has been obviated; and Applicants submit that the rejection of independent claim 1 under 35 U.S.C. § 112, second paragraph, is overcome.

***B. The Rejections of Claims 1-12 under 35 U.S.C. § 103(a) are Overcome***

The Final Official Action rejected claims 1-2, 7, 11, and 12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,029,141 to Bezos et al. The Final Official Action also rejected claims 3-5, 8, and 9 under 35 U.S.C. § 103(a) as being unpatentable over the Bezos ‘141 patent in view of U.S. Patent No. 6,484,149 to Jammes et al. Furthermore, the Final Official Action rejected claims 6 and 10 under 35 U.S.C. § 103(a) as being unpatentable over the Bezos ‘141 patent in view of U.S. Patent No. 5,890,138 to Godin et al. and further in view of U.S. Patent No. 5,710,887 to Chelliah et al. Based upon the amendments to independent claims 1, 7,

11, and 12, and the comments below, Applicants submit that the rejection of claims 1-12 under 35 U.S.C. § 103(a) is overcome.

The Bezos '141 patent describes a software system that allows an Internet sales entity, referred to as the "merchant," to efficiently market and sell goods in cooperation with web sites or other network sites of respective business partners, referred to as "associates." Software runs on the merchant's web site such that an entity can enroll as an associate and can then disseminate catalogs, such as web documents, PUSH documents, email newsletters, etc., that include the associate's reviews and/or recommendations on specific products sold by the merchant. The associate catalog documents therefore include product-specific hyperlinks, referred to as "referral links," that allow potential customers to link to the merchant's web site to initiate purchases of such products from the merchant. See Col. 1, line 50-66, Col. 6, lines 31-47 and Col. 7, lines 6-20. If the customer subsequently purchases the selected product from the merchant site, referral processing software running on the merchant site automatically credits the referring associate for the referral by, for example, applying a commission to an account of the associate. See Col. 2, lines 3-13 and Col. 7, lines 21-40. To purchase the products represented within the shopping cart, the customer proceeds to a "check out" area of the merchant site and submits an order. See Col. 2, lines 48-65 and Col. 7, line 52 to Col. 8, line 16. Thus, a benefit of the system of the Bezos '141 patent is that it more broadly exposes the merchant's web site to the public by encouraging associates to set up outgoing links to the merchant's site. See Col. 3, lines 29-32 and Col. 9, lines 30-37.

The Jammes '149 patent discloses software tools for designing and operating an electronic store via a distributed network such as the Internet. The software tools permit a customer to use a standard web browser to access the electronic store and a store designer uses an enhanced web browser to establish and manage inventory information for the electronic store and to organize the presentation of inventory through a collection of linked web pages. See Col. 7, line 66 to Col. 8, line 10. The enhanced web browser permits a merchant to design an electronic store over the Internet by creating data records that represent products and groups and the relationships between them. The data records are stored in a product information database. See Col. 9, line 59-64. The enhanced web browser accesses a web server housing an electronic

store by transmitting, in part, a URL value to the Internet that uniquely identifies the web server hosting the electronic store design application. The web server responds by transmitting initial HTTP data to the enhanced web browser. Embedded in the HTTP data are Internet locations, such as additional URL's, from which executable instructions of the respective controls can be downloaded to the enhanced web browser. See Col. 12, lines 1-44. To integrate inventory information in a computer database with web pages of an electronic store, data records representing groups are created and data records representing products are also created. The hierarchy of the groups and products is then organized and HTML template pages are prepared to ultimately display information about groups or products to a consumer. Database references are embedded in the template files to extract information about a product or group from the product information database and to translate the result set into HTML coded text. Thus, a script embedded in a template file may be accessed and executed each time a consumer requests a web page based on that template file. The web server processes the script to extract information from the product information database and merges the extracted information with the template file to construct the finished web page that is sent to the requesting consumer. See Col. 42, line 1 to Col. 43, line 12.

The Chelliah '887 patent describes a system for facilitating commercial transactions between multiple customers and at least one supplier of items by providing communications between a supplier and at least one customer site. See Col. 3, lines 6-11. In particular, the system provides commerce subsystems from which each electronic store in an electronic mall may select to suit its particular operating style. The commerce subsystems are therefore accessible to multiple stores at the same time. For instance, a commerce subsystem may store information about particular consumers that may be shared among the electronic stores. See Col. 6, line 59 to Col. 7, line 30. A typical transaction includes a customer entering a electronic storefront and being presented with the store's product database in connection with in-store sales, presented by the sales representative together with an incentives system and narrowcast advertising targeted at the customer through a promotions subsystem based upon the customer's demographics or purchasing habits as defined by a participant subsystem and customer accounts subsystem. See Col. 12, lines 29-42. Thus, the subsystems described above may be shared by

multiple electronic stores such that each electronic store may utilize the information contained in the subsystems to customize the information each store presents to the particular consumer as desired by the particular electronic store.

The Godin '138 patent discloses a computerized auction method for use via an auction web site that users may access from remote terminals. For security purposes, the users that visit the auction web site can access web servers 10 and 12, but only have access to a database server through a firewall. The database server maintains various database fields with respect to each of the products that are slated to be auctioned, such as a UPC code, a product description, an auction date and time, a current quantity, a starting and closing price for the auction, product images, and other information regarding the product. See Col. 3, lines 24-41 and Figure 1. Thus, the web servers do not maintain sensitive data, but merely retrieve it from the database when requested by the user. See Col. 5, lines 61-63. As shown in Figure 3, users participate in the auction process by visiting the auction web site and viewing a screen entitled "Next on the Block" (see Figure 7) that contains information on upcoming auctions and the products slated for auction. When a user chooses to take part in an auction that is in progress on the auction web site, the product information and the dynamic variables, which are the number of units remaining, the price of a unit, and the time remaining in the auction, are presented to the user. See Col. 6, lines 1-36. The dynamic variables, provided by the database server to the web server, are frequently updated, typically at a rate between 5 and 10 seconds. The price decreases in a predetermined manner as the time remaining in the auction decreases. See Col. 6, lines 37-45 and Col. 8, lines 21-25. A user may purchase the product up until the number of units left is zero or the time for the auction has run out. If a user purchases the product, the auction web site presents the user with screens to collect the user's financial information, which then may be confirmed by transmitting the financial information to a bank system via the database server for immediate authorization. Real time feedback then may be provided directly to the user from the bank system. See Col. 6, line 56 to Col. 7, line 30.

Independent claims 1, 7, 11, and 12 of the present application recite methods for providing real-time price information upon request that includes receiving, at a first server device from the client device, a request for content, wherein the content is contained in an associate's

web site that includes an offering made by a seller. The first server maintains the associate's web site, and the associate is an entity other than the seller. In contrast to the disclosures of the Bezos '141 patent, the Jammes '149 patent, the Chelliah '887 patent and the Godin '138 patent, the amended claims further include receiving an indication to purchase the offering of the seller directly via the associate's web site based on input from the client device. For example, as described in paragraphs 19, 20, 21, and 32 of the specification, systems and methods consistent with the claimed invention embed product offerings and provide real-time product information to clients via an associate's web site. Thus, the claimed invention provides embedded product offerings with real-time product information, which enable a business to sell goods via the Internet or other interactive network without requiring a user to visit the seller's web site.

In particular, although the Bezos '141 patent discloses that associates may market products for a merchant, the associates do not actually sell the merchant's products to customers. The associates taught by Bezos are only used to refer customers to the merchant's web site in exchange for compensation. As stated in Bezos, "because the merchant handles the tasks of processing online orders, shipping products, collecting payment, and providing customer service, the associate need not be concerned with these tasks." See Col. 6, lines 41-47. As such, Bezos does not teach or suggest that customers are capable of purchasing the products directly from the associates.

The remaining references also do not teach or suggest that users operating a client device may purchase an offering made by a seller directly via an associate's web site. The Jammes '149 patent discloses that a merchant may sell products through an electronic store on a web server (See Col. 8, lines 4-10), where the web server is accessible by consumers to purchase the products from the merchant (See Col. 50, lines 31-53). Therefore, Jammes also discloses that the merchant may sell products directly to consumers, but Jammes does not disclose that consumers may access an associate's web site that includes the merchant's products to make a purchase. The Chelliah '887 patent also does not teach or suggest that consumers purchase from an entity other than the seller, but rather discloses that consumers carry out commercial transactions directly with suppliers through an electronic store. See Col. 6, lines 26-48. Moreover, the Godin '138 patent discloses that users may access and make purchases at an auction web site from a

remote terminal but does not teach or suggest that the auction web sites are maintained by an associate other than the seller. See Col. 3, lines 14-21; Col. 3, line 67 – Col. 4, line 4.

For the foregoing reasons, independent claims 1, 7, 11, and 12 are not taught or suggested by the cited references. Since the dependent claims include the same recitations as a respective independent claim, the dependent claims are likewise not taught or suggested by the cited references for the same reasons. However, a number of the dependent claims include additional recitations that further patentably distinguish the claimed invention.

In this regard, none of the Bezos '141 patent, the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent, taken either individually or in combination, disclose that executable code may be transmitted from the first server to the client device, and the executable code may periodically establish a communication link from the client device to the second server to receive any updates to variable data referenced in the content, as recited by dependent claims 3 and 8. In addition, none of the cited references teach or suggest transmitting executable code from the first server to the client device, wherein the executable code may detect conditions associated with the client device that indicate a need for updates to the variable data and generate the updates to the variable data based on the detected conditions associated with the client device, as recited by dependent claim 4. As disclosed in the specification of the present application on pages 2 and 3, the variable data of the offering is updated in real-time and reflects product information such as price and availability. Executable code may be transmitted to the client device to request updated information to the variable data. In one embodiment of the present invention, the executable code may request information in predetermined time increments or upon the occurrence of an event. See Specification, paragraph 38.

The Bezos '141 patent does not disclose any technique for updating the seller information located on the associate's web site, let alone executable code used to request updated product information. In addition, none of the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent disclose utilizing executable code executing on the client device to receive updates to the variable data and/or to detect conditions associated with the client device that indicate a need for updates to the variable data and generating updates to the variable data based on the conditions, as recited by dependent claims 3, 4, and 8. The Examiner relies on the

Jammes '149 patent as disclosing the transmission of executable code and specifically relies on disclosure relating to instructions executable by a computer as an application program (See Col. 6, lines 58-65), executable instructions of respective tree structure and store management controls that can be downloaded to the enhanced web browser (See Col. 12, lines 14-44), and script embedded in a template file that is accessed and executed each time a consumer requests a web page based on that template file (See Col. 43, lines 6-12). However, the executable code disclosed in Jammes is not used to receive or request updates to variable data, but is rather used as instructions for the operation of the computer. As known to those skilled in the art, executable code, once accessed, triggers the launch of a program and is generally used to facilitate the operation of the computer and its associated applications. Conversely, as defined by the claimed invention, the executable code is distinct in that it is capable of establishing a communication link with the second server to receive updates to variable data, as well as detect conditions that indicate a need to update the variable data.

For the forgoing reasons, none of the Bezos '141 patent, the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent, taken either individually or in combination, teach or suggest the methods for providing and displaying, respectively, real-time product information of amended independent claims 1, 7, 11, and 12 or any of the claims that depend therefrom, namely claims 2-6, and 8-10. Thus, the rejection of claims 1-12 under 35 U.S.C. § 103(a) is overcome.

***C. The Arguments Raised by the Advisory Action are Overcome***

The Advisory Action indicates that the step of receiving a request for content and providing associate locations is disclosed by Bezos '141 patent, and that the Jammes '149 patent discloses "detecting conditions," which appears to be directed to dependent Claim 4 of the present application. However, in light of the amendments to independent claims 1, 7, 11, and 12 presented above, Applicants submit that the cited references do not teach or suggest the claims of the present application. The Advisory Action also finds that the "request" must affect a method in a "manipulative sense." Applicants do not know of any requirement that the request must affect the method in a manipulative sense and are only aware of specific instances where

manipulation is considered in determining patentability, none of which are applicable to the claims of the present application (*e.g.*, in a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art (*MPEP* § 707.07(f); during examination to determine whether the preamble limits the claims, statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the recited purpose or intended use results in a manipulative difference between the claimed invention and the prior art (*MPEP* § 2111.02); and a process that consists solely of the manipulation of an abstract idea is not concrete or tangible for purposes of determining patentable subject matter (*MPEP* § 2106)). In addition, the Advisory Action includes statements relating to apparatus claims and indicates that such claims must be distinguished from the prior art in terms of structure rather than function. As the current claims of the present application are all process claims, these statements appear to be misplaced.



### CONCLUSION

In view of the remarks and amendments presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

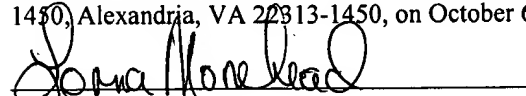


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